

JCHTparA

argument

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA, New York, N.Y.

5 v. 19 Cr. 725 (JPO)

6 LEV PARNAS,

7 Defendant.  
-----x

8 December 17, 2019  
9 12:30 p.m.

10 Before:

11 HON. J. PAUL OETKEN

12 District Judge

13

14 APPEARANCES

15 GEOFFREY S. BERMAN  
16 United States Attorney for the  
17 Southern District of New York  
BY: REBEKAH A. DONALESKI  
18 NICOLAS T. ROOS  
DOUGLAS S. ZOLKIND  
Assistant United States Attorneys

19 LAW OFFICES OF JOSEPH A. BONDY  
20 Attorneys for Defendant  
BY: JOSEPH A. BONDY  
STEPHANIE SCHUMAN

21

22 ALSO PRESENT: DENNIS KHILKEVICH, Pretrial Services Officer

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1 (Case called)

2 THE DEPUTY CLERK: Starting with the government,  
3 counsel please state your name for the record.

4 MS. DONALESKI: Good afternoon, your Honor. Rebekah  
5 Donaleski, Nicholas Roos, and Doug Zolkind for the government.

6 THE COURT: Good afternoon.

7 MR. BONDY: Good afternoon, your Honor. Joseph A.  
8 Bondy on behalf of Lev Parnas. I am joined today at counsel  
9 table by attorney Stephanie Schuman.

10 THE COURT: Good afternoon.

11 We are here for a bail review hearing. The defendant  
12 was released on a \$1 million bond, secured by \$200,000 in cash,  
13 subject to conditions including the condition of home detention  
14 with electronic monitoring.

15 These conditions were agreed upon by the defendant and  
16 the government following Mr. Parnas' arrest. On December 4th,  
17 counsel for Mr. Parnas filed a letter requesting modification  
18 of defendant's bail conditions as initially raised in the  
19 December 2nd conference, seeking to be allowed to leave his  
20 home between 8:00 and 5:00 each day, and the government  
21 responded on December 11th raising a number of issues and at  
22 that time moving for revocation of the defendant's bail.  
23 Mr. Bondy submitted a letter in reply yesterday, December 16th.

24 So, I think I will start with the government, because  
25 the government is moving for revocation of bail and I think I

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1       essentially need to decide that and the issues raised around  
2       that before addressing whether there will be any loosening of  
3       the home detention condition.

4                     So, Ms. Donaleski?

5                     MS. DONALESKI: Thank you, your Honor.

6                     Your Honor, our application is about risk of flight  
7       and Mr. Parnas poses an extraordinary risk of flight. Just to  
8       set the stage before I proceed with my argument, your Honor,  
9       Mr. Parnas posed an extreme risk of flight at the time of his  
10      arrest and initial presentment in EDVA. The government was  
11      aware of many of the factors that I will go through in my  
12      argument today and which we raise in our briefing -- his ties  
13      abroad, his lack of connection to the United States, his access  
14      to limitless funding. Because of that, this was a close call  
15      and the government negotiated the most restrictive and onerous  
16      bail package possible. We negotiated a bail package that we  
17      believed would ensure Mr. Parnas' appearance because it would  
18      bankrupt his family if he fled, and the reason that we reached  
19      that agreement was we assumed that we were proceeding in good  
20      faith and that defense counsel was accurately and truthfully  
21      representing Mr. Parnas' assets in the fact that he didn't have  
22      another pot of money hidden away that the government didn't  
23      know about that he could use to ensure his flight.

24                     Now we know that the representations that were made to  
25      us and to pretrial were totally false.

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Given the extreme risk of flight that he posed at the time of his arrest and presentment on October 10th, and knowing now that he has misled Pretrial Services and lied to Pretrial Services and the government about his assets and about the Court's directions, that's extremely troubling and it shows that he poses an unacceptable risk of flight and should be detained.

Your Honor, I would like to proceed this afternoon by first outlining briefly the risk of flight that he poses because I believe under 3148, that is what the Court is directed to consider, and then I will also speak to his lies and misstatements to Pretrial and the government which forms the basis of the revocation hearing.

So, first, I would like to address the risk of flight. There are very few defendants that pose as much of a risk of flight as Mr. Parnas does. I would like to give five separate reasons.

So, first he has reported and unreported connections to the highest levels of government to the Ukraine. He traveled internationally on an almost monthly basis in this year alone. He has access to private jets, to extreme foreign wealth that would enable him to flee the country. He traveled to Ukraine almost monthly in 2019. And so, the idea that it is dangerous there and that he would not be welcomed with open arms when he arrived in Ukraine is just simply not credible.

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1                   THE COURT: Well, I assume maybe the idea of  
2 dangerousness in Ukraine might be of recent vintage based on  
3 statements made about possibly cooperating with the House  
4 impeachment inquiry. I am just guessing. We will hear from  
5 Mr. Bondy about that.

6                   MS. DONALESKI: Yes, your Honor; and I would like to  
7 point out that that leads into a second point that I will make  
8 in that there are people who, in Ukraine, abroad, that do not  
9 want Mr. Parnas sitting here in New York so their interests and  
10 Mr. Parnas' interests are aligned in ensuring that he does not  
11 appear. And I will also note that the only person who is  
12 saying that there are threats in the Ukraine is Mr. Parnas and  
13 we have seen no independent evidence of that. We believe that  
14 it is simply something he is saying to the Court in order to  
15 stay out of jail today.

16                  So, I mentioned the interests of foreigners who would  
17 be benefited by Mr. Parnas not being present for Court. He has  
18 a foreign benefactor who will pay for his travel and who has  
19 paid for his travel this year. Much of his private travel in  
20 the fall of 2019 was paid for by the same Ukrainian oligarch  
21 that is fighting extradition to this country and for whom  
22 Mr. Parnas is working.

23                  THE COURT: Is that Mr. Firtash?

24                  MS. DONALESKI: Yes, your Honor.

25                  Second, Mr. Parnas has powerful incentives to plea.

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1 He faces a maximum of 30 years' imprisonment. The government's  
2 evidence is overwhelming and the Second Circuit has held that  
3 that alone provides a significant impetus to flee.

4 Third, Parnas is charged with crimes involving fraud,  
5 deception, and foreign influence on a grand scale. The crimes  
6 with which he is charged show that Parnas has no compunction  
7 about lying to the government, lying to the public about the  
8 true source of his funds when it suits him.

9 Fourth, GPS monitoring cannot mitigate the extreme  
10 risk of flight that Parnas poses. Simply put, defendants flee  
11 all of the time. We have cited a number of examples from the  
12 last few years alone in this district. Parnas could cut off  
13 his bracelet and go to the airport and be gone before we could  
14 do anything about it. Simply because pretrial would receive a  
15 notification that he had tampered with his bracelet does not  
16 mean that pretrial or the government could stop him from  
17 fleeing. And, indeed, if pretrial received a notification that  
18 Parnas had cut off his bracelet they would go to his house,  
19 they wouldn't go to the airport or anywhere else that Parnas  
20 actually was.

21 Fifth, Parnas' lies and misstatements to Pretrial  
22 Services and the government, which have only recently come to  
23 light, show how little respect Parnas has for the process and  
24 the Court and any efforts to place restrictions on him so I  
25 would like to turn to that now, your Honor.

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1                   What we have seen over the last two months is a  
2 pattern, a pattern of misleading the government, a pattern of  
3 misleading the Court and Pretrial Services, of walking just up  
4 to the line so that he has an excuse if he is caught and I  
5 expect that's what we will hear a lot of today. But what this  
6 is is an effort to ensure that Parnas is released on the terms  
7 that suit him and that he is only disclosing what he wants to  
8 disclose in a way that benefits him. He is self-interested and  
9 he has shown that he will only act in his self-interest and not  
10 according to the Court's directions.

11                  So, first, Parnas misled his pretrial services  
12 officer, Officer Samson in Florida, about the conditions of his  
13 release. I know your Honor has spoken with Officer Samson and  
14 we have outlined in our papers what officer Samson's  
15 understanding was. I expect that Parnas' counsel will say  
16 well, it was all just a misunderstanding. What is troubling is  
17 that this misunderstanding was so diametrically opposed to what  
18 the Court had ordered at the conference, which was simply that  
19 Parnas' counsel was to solicit the views of Pretrial Services,  
20 and yet Pretrial Services in Florida was left with the clear  
21 understanding that the Court had already ordered this  
22 modification.

23                  It is troubling for several reasons. Number one, the  
24 way that Parnas misled his officer was, had the effect of  
25 making it more easy for Parnas to flee. The officer understood

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1 that the Court had already ordered that Parnas could be out of  
2 the house during the day. Your Honor, it takes time to arrange  
3 flight, especially it takes time when your travel documents  
4 have been surrendered, when you need to ensure that your family  
5 can flee with you. We believe that Parnas was possibly setting  
6 the stage for his flight. He is trying to get out of the house  
7 for several hours a day when pretrial didn't know where he was  
8 to enable him to flee. This strongly suggests that he  
9 continues to pose an extreme risk of flight and that he has no  
10 issue with lying to pretrial and misleading pretrial in order  
11 to enable him to do that.

12 Second, he has a pattern of misleading Pretrial  
13 Services and the government about his assets and there are four  
14 significant omissions and lies regarding his income that I  
15 would like to speak to now.

16 So, first, Parnas lied about his income from the law  
17 firm. So, Parnas, as we mentioned in our papers, submitted as  
18 part of his bail conditions, an affidavit under penalty of  
19 perjury to the government. I can hand that up to your Honor if  
20 you would like to see it.

21 THE COURT: Yes, please.

22 What was the date of the affidavit?

23 MS. DONALESKI: The date of the affidavit is October  
24 29th. It was submitted to the government on October 30th.

25 Your Honor, there are three significant omissions from

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1 that affidavit. Number one, Parnas doesn't disclose his  
2 employment with the law firm -- at all. Number two, Parnas  
3 doesn't disclose the cash accounts held in the name of his  
4 wife, which I will get to in a moment and which we believe to  
5 be Parnas' assets, his purchase of a \$4.5 million home which I  
6 will also get to in a moment, and the loan or income of  
7 \$1 million that his wife received in September of 2019.

8 Now, when defense counsel submitted this affidavit to  
9 the government on October 30th, defense counsel noted in a  
10 cover e-mail that Parnas still needed access to certain  
11 information in the government's possession. Your Honor, this  
12 is a ridiculous attempt to shield Mr. Parnas from criminal  
13 liability for submitting a materially false statement for two  
14 reasons. First, the information that Mr. Parnas omitted was  
15 not known to the government and was not in the government's  
16 possession. People, of course, know who they work for.  
17 Mr. Parnas intentionally omitted the fact that he worked for  
18 this law firm and we know that he did that because he had  
19 previously told the Pretrial Services officer in Virginia on  
20 October 17th that he worked for the law firm. So, he  
21 intentionally misrepresented and omitted that information from  
22 the government's affidavit.

23 THE COURT: But I mean a lot of this stuff -- and I  
24 will get to the assets of his wife -- but, for example, it says  
25 employment information. Your employer, if it was a one-time

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1 contract employment for a few weeks three months ago, would you  
2 put that down? Or, would you interpret that as my current  
3 employer? I mean, there is a lot of interpretational issues  
4 that I assume Mr. Bondy is going to get up and respond to.

5 MS. DONALESKI: A couple responses to that, your  
6 Honor.

7 First, at the time he submitted that affidavit he was  
8 still receiving income from the law firm. Second, what he has  
9 said in the press is that he was working for the law firm to  
10 represent Mr. Firtash. There is no evidence that he wasn't  
11 employed by the law firm and, in fact, he said the opposite --  
12 that he was working for the law firm and being paid by the law  
13 firm. They are his employer. He is receiving income from  
14 them. There is no reason why he would disclose that  
15 information to pretrial but then completely omit it from the  
16 sworn affidavit he submitted to the government. That just  
17 doesn't make sense.

18 I would like to also talk about the cash assets which  
19 gets into his arguments about the fact that they're all in his  
20 wife's name so they're not actually his assets.

21 So, that doesn't touch the argument that we are making  
22 which is that he disclosed vastly different sums to Pretrial  
23 Services and the government about his cash assets. And the  
24 questions from pretrial and the government in that affidavit  
25 are simple. What assets do you have? They're aimed at trying

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1 to find out what money is available to you if you are going to  
2 flee, what money is available to you if you are going to try  
3 and satisfy a bond. That's what the government is trying to  
4 get at, that's what pretrial is trying to get at. And  
5 Mr. Parnas and his wife are married, they live together, she is  
6 unemployed, she has no separate assets aside from Mr. Parnas.  
7 It is not as if she has a trust fund. The only money that she  
8 has comes from Mr. Parnas.

9                   Mr. Parnas' lawyer told the government on October 17th  
10 in an e-mail that the total cash assets for the Parnas family  
11 included the three accounts that we have noted in our letter.  
12 Number one, a SunTrust account in Mrs. Parnas' name that had  
13 approximately \$450,000; number two, a student account which had  
14 approximately \$50; and number three, a checking account for a  
15 business to which Mr. Parnas was a signatory that had about  
16 \$2,000. He sent screenshots of each of these accounts and I  
17 can hand up that e-mail to your Honor if you would like to see.

18                   THE COURT: Please.

19                   MS. DONALESKI: Your Honor, what that e-mail shows is  
20 simply the sums in each of the accounts. So, in an effort to  
21 cause the government to reduce the amount of cash or property  
22 that we were requiring him to post and that he had agreed to  
23 post, his lawyer represented to the government that all the  
24 money or property that they have is set in these three bank  
25 accounts, it is about half a million dollars, less than half

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1 a million dollars. Based on that representation and that  
2 information, we consented to a modification of his bond to  
3 allow him to post \$200,000. You will see in the e-mail that  
4 his counsel said they need the remaining money to live off of  
5 which is why we didn't require Mr. Parnas to post every cent he  
6 owned. So, the government consented to a modification of the  
7 bond based on counsel's representation that they didn't have  
8 any other funds and I can provide that e-mail to the Court.

9                   So, on October 17th, defense counsel provided us with  
10 the sums in the account and later that evening the government  
11 responded and said that while we were still concerned about the  
12 lack of assets, we would consent to a modification of the bond.

13                  THE COURT: In this e-mail correspondence from October  
14 17th, was the detailed account information provided to the  
15 government reflecting the \$1 million loan from a foreign  
16 source?

17                  MS. DONALESKI: It was not, your Honor, and I provided  
18 the attachments to your Honor which simply show a snapshot.  
19 They simply show the amount that was in the account.

20                  THE COURT: As of that date.

21                  MS. DONALESKI: As of, presumably, whenever  
22 Mrs. Parnas printed off the snapshots.

23                  So, the government had already consented based on that  
24 information. The following morning, on October 18th, defense  
25 counsel provided to the government slightly more information

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1 which I understand Mr. Bondy has provided to the Court in  
2 advance of today's hearing. However, I would like to make a  
3 couple points about that.

4 First, the information that defense counsel provided  
5 did not provide any information about the source of the funds  
6 either incoming or outgoing.

7 THE COURT: But, on October 18th, Mr. Parnas' counsel  
8 did provide the more detailed bank accounts reflecting the  
9 \$1 million wire transfer.

10 MS. DONALESKI: He did, after the government had  
11 already consented. And, your Honor, when we saw those account  
12 records, we couldn't see any other detail; we just saw fed wire  
13 \$200,000 in, \$200,000 out.

14 THE COURT: But you saw \$1 million; \$200,000 five  
15 times over the course of a few days in September.

16 MS. DONALESKI: More than a few days, but yes, that is  
17 exactly right, your Honor, and what we did with that  
18 information was we immediately subpoenaed that bank account  
19 information. We found it to be suspicious but we didn't think  
20 that that, standing on its own, was enough to go back to the  
21 Court and revoke our consent to the bail package so what we did  
22 was investigate it for ourselves and then provide Mr. Parnas an  
23 opportunity in the financial affidavit, which he submitted  
24 about a week later, to explain that information, to explain  
25 whether that money was income, what he was doing with the

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1 money. And what he did was not disclose any of it. He didn't  
2 disclose the law firm income, he didn't disclose the fact that  
3 he had bought a house, and he didn't disclose the \$1 million  
4 loan.

5 THE COURT: Wouldn't it have then been apparent to the  
6 government on the date of the affidavit, October 29th, that he  
7 was not including his wife's financial information because he  
8 didn't include the \$1 million that you knew about?

9 MS. DONALESKI: Your Honor, we didn't know the details  
10 of the \$1 million and I will get to that in a moment. We saw  
11 that the financial affidavit was facially incomplete and it  
12 appeared to be materially false so we investigated it.

13 THE COURT: Right, but on October 29th you saw the  
14 discrepancy.

15 MS. DONALESKI: That's correct, your Honor, but we  
16 didn't have the bank records. We didn't actually have any  
17 information about where the money had come from or gone to, and  
18 the reason that we should have investigated and did investigate  
19 is there could have been some innocent explanation for that  
20 money and why Mr. Parnas didn't include it. That's not the  
21 case, we have now learned, and our investigation coincided the  
22 timing with Mr. Parnas' bail application. We only recently  
23 received the records from SunTrust and we only recently learned  
24 that the true source of the \$1 million was Firtash's lawyer.

25 THE COURT: Firtash's lawyer.

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1 MS. DONALESKI: Exactly. The man for whom Parnas was  
2 working sent \$1 million -- the lawyer for the man for whom  
3 Parnas was working sent \$1 million to his wife in September of  
4 2019. So, the assertion that that money was just an arm's  
5 length friend-to-friend transaction between Firtash's lawyer  
6 and Parnas' wife is not credible. Number one, it is an  
7 unsecured, undocumented loan to a housewife with no assets.  
8 That makes no sense, your Honor. And second, there is press  
9 reports that Parnas had bragged that he was the highest paid  
10 translator. I have the articles, I am happy to hand it up to  
11 your Honor, but Mr. Parnas bragged that the money was his and  
12 spent the money as if it were his.

13 So, if you look at how Parnas and Svetlana spent the  
14 money, they bought a house. Your Honor, on September 9 of 2019  
15 Svetlana Parnas signed an agreement to purchase a house for  
16 \$4.5 million cash. She put \$200,000 down in September of 2019  
17 using some of the money they received from Firtash's lawyer and  
18 their closing date was scheduled to be October 4th.

19 THE COURT: Now the information about the house was  
20 also disclosed to Pretrial Services, wasn't it?

21 MS. DONALESKI: No.

22 THE COURT: I thought it was disclosed to the Virginia  
23 Pretrial Services.

24 MS. DONALESKI: That they had purchased a \$4.5 million  
25 house?

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1                   THE COURT: Or that they were purchasing a house. Is  
2 that not true?

3                   MS. DONALESKI: He disclosed that he is unsure if he  
4 and his wife will be closing on the home in Boca Raton,  
5 Florida.

6                   THE COURT: Right. So, they disclosed that they were  
7 buying a house.

8                   MS. DONALESKI: They disclosed that they were unsure  
9 of whether they were buying a house but, again, that wasn't on  
10 the financial affidavit that he submitted to the government.

11                  THE COURT: Okay.

12                  MS. DONALESKI: So he should have either disclosed on  
13 that financial affidavit the \$200,000 he had in escrow or the  
14 fact that they were buying this \$4.5 million house. It also  
15 bears the question of if Parnas and his wife believed that they  
16 were going to be able to come up with \$4.5 million cash in  
17 October 2019, where the rest of that money was going to come  
18 from and whether that money is still available to them but  
19 unknown to the government.

20                  THE COURT: Do you know the status of the house  
21 purchase?

22                  MS. DONALESKI: We learned last night that it was sold  
23 to another party and the \$200,000 remains in escrow.

24                  I will also note, your Honor, that Parnas regularly  
25 papered-over money that he received into his account as loans.

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1 In the government's experience in this case and in  
2 investigating other cases involving Russian and Eastern  
3 European money, it is common for money to be transferred into  
4 the United States but papered over as a loan for two reasons.  
5 Number one, loan income is not taxable; and second, it evades  
6 scrutiny from banks because if it is a loan it appears to be  
7 more legitimate and we know that Parnas, in the past, based on  
8 our investigation, has received funds from overseas that appear  
9 to be papered over as loans that he never repaid and he spent  
10 as if they were his own personal income.

11 THE COURT: Okay. But just to be clear on the house,  
12 the Pretrial Services officer in Virginia where he was arrested  
13 wrote on October 15th the defendant advised that he and his  
14 wife had signed a contract for a home in Boca Raton two to  
15 three weeks ago and closing is scheduled for October 31st.  
16 However, he does not recall the address of the property or the  
17 price.

18 MS. DONALESKI: Your Honor, yes; this was not known to  
19 the government. His counsel represented to the government that  
20 they had no other property and that's why they couldn't post  
21 \$1 million, and then on his financial affidavit on October  
22 29th, which was before the closing date, he didn't disclose any  
23 of this.

24 Given the materiality of these misrepresentations in  
25 what was already a close case, Parnas knew that any additional

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1 funds that the government learned of, any access to foreign  
2 funding such as the loan from Firtash's lawyer to his wife,  
3 their purchase of the \$4.5 million home, these are things that  
4 would have been material to the government in determining  
5 whether Parnas was even bailable. And the fact that he  
6 specifically omitted these things from his financial affidavit  
7 is troubling and indicates that it was intentional.

8 THE COURT: But what on the financial affidavit would  
9 technically call for disclosure of a future closing on a home  
10 or of \$200,000 in escrow toward a home? That's not your asset  
11 anymore is it?

12 MS. DONALESKI: Your Honor, I think that -- I don't  
13 know that that's the case. He has \$200,000. It is asking for  
14 any assets or any accounts. He has \$200,000 sitting in an  
15 escrow account and he signed a contract to purchase a home. He  
16 also didn't disclose his income from the law firm and he didn't  
17 disclose the loan and it specifically asked for any obligations  
18 that he had.

19 THE COURT: Have you learned anything else about the  
20 loan that you are in a position to share?

21 MS. DONALESKI: Sorry, one moment?

22 (Counsel conferring)

23 MS. DONALESKI: A couple points that I have made and I  
24 think it will just drive home about the loan.

25 So, first, the idea that it was a loan to his wife is

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1 not credible given who made the loan, when it was made, and the  
2 context in which it was made; the statements that Parnas made  
3 about the money and what he did with the money after he  
4 received it; the fact that they are continuing to represent it  
5 as, oh, it is a loan to Svetlana, I think is troubling.

6 Second, he didn't disclose the loan to the extent it  
7 was income, which is how they treated it. He should have  
8 disclosed it to pretrial and the government. To the extent it  
9 was a loan, he was obligated to disclose that and he didn't.  
10 And I think what is interesting about that money in particular  
11 is it shows the access to foreign funding that he has and  
12 particularly funding associated with his foreign benefactor.  
13 So, I think the fact that even now, in connection with this  
14 bail application Mr. Parnas didn't disclose the true source of  
15 the funds, I think, shows a pattern. It shows that he is  
16 continuing to at step, after step, after step, trying to only  
17 disclose enough not to get himself into further trouble but  
18 give him an excuse about why he shouldn't be held responsible  
19 for his actions and his misstatements.

20 That is the main point that we want to make, your  
21 Honor, is Parnas posed an extreme risk of flight from day one  
22 and continues to pose that risk of flight and his actions in  
23 the last two months, this pattern of misleading the Court,  
24 pattern of misleading pretrial, pattern of misleading the  
25 government, it shows that the Court should have no faith in

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1 Mr. Parnas. It shows that Mr. Parnas is acting only in his own  
2 interest, is not amenable to supervision, and it shows that  
3 there are no conditions that would assure his appearance and  
4 his compliance with the Court's directives.

5 So, unless your Honor has any other questions, I am  
6 happy to answer them.

7 THE COURT: Okay. Thank you.

8 I will hear from Mr. Bondy.

9 MR. BONDY: Thank you very much, your Honor.

10 I start out by noting that Mr. Parnas won a green card  
11 lottery for his family from the Soviet Union when he was 4  
12 years old and he came here with his family and he went to  
13 school in Brooklyn, we went to PS 303 in Brooklyn. Talk about  
14 ties, deeper ties to the community from 5th to 9th grade. He  
15 then attended Lincoln high school in Brooklyn, your Honor. He  
16 has no family in Ukraine. His mother is here, his sister is  
17 here, he is happily married, he has five children that are  
18 still either in the home -- his oldest son is in law school.  
19 They are 1-year-old, 6 years old, 12 years old, 17, 20 -- the  
20 law student -- and he has a 26-year-old full grown daughter as  
21 well. All of his ties are to the United States of America and  
22 he is a proud citizen of the United States of America, and he  
23 has been for many, many years.

24 I started this process on the 2nd of December by  
25 asking you if you would consider granting Mr. Parnas a couple

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1 hours out of the house so that he could walk with his family,  
2 exercise a little bit, perhaps have a meal with his wife, and  
3 have some semblance of normalcy while fighting this case in the  
4 Southern District of New York. I made that request and the  
5 Court properly invited me to seek the position of the Pretrial  
6 Services office. I contacted, on the 4th of December -- let me  
7 back up.

8 When we left, your Honor, in the presence of  
9 Mr. MacMahon and I, we had Mr. Parnas call Officer Samson to  
10 apprise him of the fact that we would be calling to seek his  
11 position on whether he would oppose or not oppose, at that  
12 point, the meager two hours out of the house every day that we  
13 had asked for. And Mr. Parnas did that and he informed his  
14 Pretrial Services officer that he was done with court, he would  
15 be returning home, and his lawyers would be speaking with him  
16 about the possibility of him getting out of the house a couple  
17 hours. It was nothing deceptive or misleading about that  
18 communication with Mr. Samson whatsoever.

19 I note that along the way, up until the time that we  
20 got to December 2nd, Mr. Parnas has at all times come to his  
21 court proceedings. He has visited with counsel in New York  
22 repeatedly. He has not violated a single term of his pretrial  
23 supervision which he takes very seriously.

24 During the course of that multi-month period or  
25 three-month period at this point, he has traveled to and from

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argument

1 New York through a variety of international airports. He has  
2 traveled back to Florida through a variety of international  
3 airports. He has been, at all times, near the same cluster of  
4 boats and airplanes and airports that the government knew of  
5 when this bail was issued. Not once has he ever tried to flee.  
6 That's not what he wants to do. He is very interested and he  
7 has been very vocal about standing up and speaking out and  
8 telling the truth.

9                 The government notes in their first footnote in their  
10 pleading from December 11th that, as the Court is aware, at the  
11 time he was leaving the country he received a Congressional  
12 document and had refused to cooperate with the subpoena. We  
13 changed that entire course. Mr. Parnas very much wanted to  
14 cooperate with that subpoena and we apprised the House  
15 Intelligence Committee by letter, my letter dated October 30th  
16 and delivered to them on November 2nd, that we were withdrawing  
17 his prior counsel's objection to the subpoena and intended  
18 fully to comply.

19                 As the Court knows, there has been a little problem in  
20 compliance because the documents that constitute item 11 in the  
21 House Intelligence committee's rider are all of the documents  
22 seized from him by federal law enforcement. And so, we have  
23 had to try to gather things that we can that in his possession  
24 and custody and control and turn them over to Congressional  
25 investigators. Some of that's been photographic, some of it

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argument

1 has been video, some of it has been e-mail, some of it has been  
2 fruits of his trips to Ukraine which were almost always either  
3 with Mr. Giuliani or on behalf of the law firm of Victoria  
4 Toensing and Joseph diGenova.

5 In any event, the change in circumstances since the  
6 time of his arrest and bail, it has been his vocal willingness  
7 to stand up and to tell the truth and to do everything that he  
8 can to get that material to the House and at this point to  
9 Congress. Indeed, we have even asked the government to just  
10 turn over his devices. We have no objection, with everything  
11 they have seized, going to get Congress. And the reason it is  
12 so important to us -- it makes perfect sense to the lawyers in  
13 the room, maybe not so much to others -- before Mr. Parnas  
14 could be properly evaluated as a witness in that proceeding it  
15 was important that we got documents to the committee. Our  
16 inability to do that has, on some level, thwarted and hampered  
17 our ability to have him properly evaluated as a witness.  
18 Nonetheless, if he was trying to go anywhere it would be to  
19 Washington, D.C., to speak to Congress.

20 THE COURT: So have you produced some documents? Or  
21 not?

22 MR. BONDY: Yes, we have, your Honor. We have  
23 produced the things that we can that are in our possession,  
24 custody, and control.

25 THE COURT: So, the government said at the December 2

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argument

1 hearing that one of the problems with the delay is that they're  
2 password protected.

3 MR. BONDY: Yes. Yes. I mean, the problem with that  
4 is it is unique but we have the government here and then we  
5 have this Congressional inquiry. And we can assure you that  
6 our interest in speaking truth is not just limited to Congress.  
7 But, I don't control the ability for somebody to be called as a  
8 witness and I don't control the ability for people to want to  
9 hear from Mr. Parnas. I do, though, have to deal with the  
10 interest of his Fifth Amendment concerns here; the ability to  
11 get information to a Congressional body that may be able to  
12 actually immunize him in a way that would be beneficial to him  
13 and I am trying very hard to navigate those two agencies, if  
14 you will.

15 THE COURT: Understood. Why don't you get to the good  
16 stuff --

17 MR. BONDY: Yes. You got it.

18 THE COURT: -- which is how you explain these  
19 discrepancies as discussed by the government.

20 MR. BONDY: Well, I had sent to the Court some  
21 documents that I thought were probably better than we looked at  
22 a little bit internally and they constitute, we will start with  
23 the SunTrust banking records.

24 The government sent Mr. MacMahon an e-mail on the 17th  
25 of October. They have tendered that e-mail to the Court in

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argument

1 which they state that they've run this proposal up our chain  
2 and are still concerned about the lack of assets to secure  
3 bond. We would be willing to consent to the following  
4 modification -- this is Ms. Donaleski's words -- provide two  
5 months of bank records for Svetlana Parnas' account at SunTrust  
6 account prior to release. She identifies screen shots that  
7 Mr. MacMahon sent to her apparently later that day, but does  
8 concede the fact that these SunTrust records were tendered to  
9 her colleagues in Virginia and presumably the Court had access,  
10 and pretrial as well, the following day before there was any  
11 kind of determination as to a combination of factors or a bail  
12 package that might reasonably secure Mr. Parnas' appearance.

13           Into the SunTrust account it is seen that there are  
14 transactions. There are five \$200,000 transactions that go  
15 into that account in September. No one was trying to hide that  
16 from the government in any respect. No one from the government  
17 apparently asked. If they had asked, they would have been told  
18 that it was never hidden. And the point is this: Income or a  
19 loan or whatever it was, these were monies that went into that  
20 account that the government wanted to see before they agreed to  
21 release, that they then had access to and look at, and then  
22 they agreed upon his release.

23           THE COURT: So there are five \$200,000 incoming wires?

24           MR. BONDY: Yes.

25           THE COURT: There is no information about the wires

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argument

1 other than the date; September 3rd was two of them; September  
2 10th was one of them; September 13th was one of them; and  
3 September 23rd is one of them but there is no information on  
4 the source, it is just a wire transfer.

5 MR. BONDY: There is not but the government certainly  
6 could have asked and taken it into account at the time that  
7 they were agreeing upon the bail package and if they had asked  
8 it would have been told. It was right in front of them that  
9 information. Every one of these transactions was in front of  
10 them. The escrow deposit that was made on a home was two  
11 \$100,000 debits from the account that same month. Mr. Parnas  
12 did identify the fact that there was a home that the family was  
13 purchasing. Mr. Parnas, as the signator on the contract of the  
14 home, the monies are currently in escrow and will not be  
15 released absent some kind of a Court order or amicable  
16 settlement because they were viewed to be a hard money deposit  
17 and the Parnas' defaulted on their ability to close on that  
18 property. He is not trying to buy a \$4.5 million home, he is  
19 not trying to continue that transaction, it has been abandoned  
20 and the state of the money is currently unreleasable. It could  
21 be released. I don't know that they would get a quantum of it  
22 back. My understanding, with real estate deals that go awry  
23 with a hard money deposit, is the seller usually keeps, if not  
24 all the money, then virtually all the money. But, certainly  
25 that was in the bank records, that was disclosed to the

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argument

1 government, it was told to the Pretrial Services office. There  
2 was no attempt to deceive whatsoever. There was no attempt to  
3 minimize his assets whatsoever.

4 During the course of ferreting out the information on  
5 this loan so that I could be prepared to stand up and respond  
6 to it today, your Honor, I learned that, indeed, there was a  
7 loan and there is an e-mail chain that is pretty clear about  
8 this from this gentleman to Ms. Parnas. And it seems to be it  
9 is a loosely-papered loan, that's for sure, and it seems to be  
10 one that is entered into with relatively favorable terms and  
11 not much documentation, but I don't pretend to understand how  
12 the very wealthy decide things and do things. What we do have  
13 here is a record of conversations between this attorney, a  
14 Swiss national -- not a Ukrainian person, not a Russian person.

15 THE COURT: Can you say who it is?

16 MR. BONDY: Yes, Ralph Oswald Isenegger. And, indeed  
17 he writes to Ms. Parnas on the 3rd of September that it was  
18 really nice to see her and she has a beautiful family and he  
19 will provide her a loan for maximum of five years. He didn't  
20 need a collateral guaranty but it was a five-year period at 5  
21 percent annually meaning \$50,000 year in interest. She thanked  
22 and acknowledged and the tranches of the loans then followed.

23 When I tried to dial down on this and get additional  
24 information and I communicated with Mr. Isenegger, the next  
25 thing that he did was write a letter to Ms. Parnas essentially

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argument

1 pulling the loan because all of the bad press her husband has  
2 received and asking if she was in position to now return the  
3 loan. And so, as to that source of financing that the  
4 government points to, it is dried up, it's gone, it's blown  
5 away.

6 To the extent they want to argue that Dmitry Firtash  
7 is some kind of a benefactor all from the Ukraine, I note that  
8 over the past couple of months with Mr. Parnas taking the  
9 position that he has taken, it is one contrary to the interests  
10 not only of Mr. Firtash but also people representing him and a  
11 number of people around him. I believe he has burned that  
12 bridge to the extent that there ever was a bridge in terms of  
13 getting any money.

14 THE COURT: When you say it is dried up, there is a  
15 request to return it or they haven't returned it? Or are you  
16 saying they have?

17 MS. DONALESKI: Well, it was yesterday evening when I  
18 got this request and the thing is I then submitted to the Court  
19 a more recent set of SunTrust bank records, we have the  
20 November statements, and that demonstrates that the Parnas'  
21 financial position has diminished dramatically September. They  
22 have I think \$94,000 as of the end of November.

23 So, I have not yet spoken to the family about what  
24 they want to do with the loan. It is not part of my mandate  
25 for today.

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argument

1                   THE COURT: But isn't that suspicious that they got a  
2 \$1 million loan and now it is down to \$94,000? I know you are  
3 an expensive lawyer but you are not that expensive.

4                   MR. BONDY: But his bail was \$200,000. It has to be  
5 posted by Ms. Parnas, and was, out that account. There was  
6 escrow payment for a home for \$200,000, right? There was a  
7 variety of other payments for back payments that were due and  
8 owed, and now there is \$100,000 remaining. So, when you start  
9 to break down the numbers you have payment for the security of  
10 the defendant in a significant federal matter. You have some  
11 legal fees which are really not the corpus of that. You have  
12 payments for the real estate property and you have every  
13 transaction that is laid out in his bank accounts that was  
14 available to the government and has always been available to  
15 the government. It is only now when we, in response to the  
16 government's motion for remand, ask for additional  
17 documentation of a loan that we have this notification that the  
18 loan will now be pulled and there is a request for return of  
19 funds.

20                  But, if anything, those monies that the claims are  
21 available to flee are just not there. It is not true. It is  
22 not true. And, everything in this banking record was known to  
23 the government.

24                  I note that there is an October 23rd Pretrial Services  
25 report from the Southern District of New York that was prepared

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argument

1 before we saw your Honor and in that document there is  
2 reference to an income of about  
3 four-thousand-one-hundred-some-odd dollars a month which  
4 represents funds from a law firm, plus about \$2,500 from this  
5 company Global Energy Producers which is this energy company  
6 that he and Mr. Fruman were hopeful to start. That figure  
7 represents \$50,000, the four-thousand-one-hundred-some-odd a  
8 month that Mr. Parnas was still due from the law firm at that  
9 time. There was a payment he was yet to receive. It was  
10 income that he expected to receive that he disclosed and then  
11 it got broken up by pretrial into some kind of monthly  
12 allowance but it was a \$50,000 payment.

13 When we filed our financial document with  
14 Ms. Donaleski I was very clear because the government had  
15 seized all of his materials. His co-defendant, Mr. Correia,  
16 did a lot of his secretarial work he can't speak to outside of  
17 the presence of counsel and he was not in a position to put  
18 together many of the things were requested by the government.

19 Furthermore, and I will say that I had written to  
20 Ms. Donaleski in my e-mail which was dated October 30th early  
21 in the morning -- this case has kept us up, I think -- at 1:26  
22 a.m. indicated: *Please see Mr. Parnas' financial statement and*  
*attachments below. He requires additional information that is*  
*in the government's possession and from his accountant to*  
*complete the statement accurately on questions that include his*

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argument

1       *business, self-employment income, judgments, and matters*  
2       *pending. Please do not hesitate to contact either Ed or I with*  
3       *any questions.*

4                  That was on the 30th early in the morning. I am not  
5       sure and the government may not know, however, I can hand up a  
6       letter from Mr. and Mrs. Parnas' accounting firm dated October  
7       30th in which the firm fires the Parnases.

8                  So, since that time Mr. Parnas has undertaken to  
9       engage a new accountant and is intent upon gathering correct  
10      information not only for these purposes but for purposes of his  
11      tax liabilities and for attempt to go resolve those issues  
12      also.

13                 I can understand how, given the nature of this case  
14      and Mr. Parnas being in the public eye and the accounting firm  
15      would not want to have him as a client anymore, but there was  
16      nothing that Mr. Parnas filed in that financial statement that  
17      was false. To the extent that things were incomplete we  
18      explained why they were incomplete. We would be more than  
19      happy to supplement and complete that record to the extent that  
20      we can.

21                 THE COURT: Well, let's start with specifics.

22                 MR. BONDY: Yes.

23                 THE COURT: Law firm employment. Where it says  
24      employment information, it is blank.

25                 MR. BONDY: Right. That's correct. Because part of

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argument

1 the proceeds that Mr. Parnas received from the law firm do not  
2 represent income. Part of that was to be shared with  
3 Mr. Correia; another part, that represents things that would be  
4 deducted and those were things that I, in terms of putting down  
5 a number and saying that's income, under penalties of perjury,  
6 did not seek to be accurate or true. It seemed that if I could  
7 not answer something accurately under penalty of perjury that  
8 we needed to explain to the government that we couldn't make an  
9 accurate calculation and the reasons why. But, that's not  
10 Mr. Parnas trying to defraud anybody. That's not Mr. Parnas  
11 trying to lie. And, it is not him trying to mislead.

12 THE COURT: But he was employed by this law firm, no?

13 MR. BONDY: He had a four-month contract, that's  
14 correct. He was paid \$50,000 for four months. At the  
15 beginning of this case there was another payment that -- maybe  
16 even two -- but, there were payments that were yet to be made.  
17 Of the money that had been paid, not all of that money would  
18 have been viewed as income, per se. And my only point is if  
19 you are signing this financial statement and you are misstating  
20 something, it is a lot worse, I believe, than telling the  
21 government why you can't answer something and indicating that  
22 that is indeed the case.

23 So, we have most of the monies that have been received  
24 that the government is complaining of, things that were known  
25 to them at the time of the original bail setting.

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argument

1 Furthermore --

2 THE COURT: Let me ask another thing about the  
3 affidavit.

4 I don't quite understand that answer. There is an  
5 employment information section that's blank and you just told  
6 me he got \$200,000 over four months. I don't know why you  
7 wouldn't put that on the form.

8 MR. BONDY: I understand that. I understand.

9 THE COURT: What about the wife, which is that this  
10 \$1 million came to his wife's account under circumstances  
11 which, let's be honest, suggest that it is his \$1 million. Why  
12 didn't he disclose it?

13 MR. BONDY: Well, an inference or a suggestion is not  
14 necessarily accurate and he didn't disclose it because it  
15 doesn't ask him to disclose anything pertaining to his spouse.

16 I have what -- and I didn't really dial down on this  
17 until I had to, but I had what appears to be a clear and  
18 unequivocal chain of communication between the lender and  
19 Mr. Parnas indicating that, indeed, this was a loan that was  
20 being given to her. Even when I tried to acquire additional  
21 information, what I got back was a letter he wrote to  
22 Mrs. Parnas indicating, quite strenuously, that what I did know  
23 was not your husband's travails but that I gave you a loan  
24 under certain terms.

25 So, again, these are records that the government asked

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argument

1 for, the government had them, the government could review them,  
2 and there is really, if you look at it I think as you pointed  
3 out earlier, there is no independent place to put those facts  
4 about your wife's assets. It is just not asked. In fact, I  
5 think that when pretrial interviews you and you start saying  
6 what about my wife's assets, they're more focused on your  
7 assets, more focused on your income. But, there was never  
8 intent to deceive on part of Mr. Parnas.

9 THE COURT: He didn't recall the amount of the house  
10 that he had just bought or the address?

11 MR. BONDY: Well, I wasn't with him, that was  
12 Mr. MacMahon. I don't know. But, I do know this. There was a  
13 contract for a home, it has never been closed upon, it was  
14 between Ms. Parnas and a seller and it is somewhere in Boca  
15 Raton, I believe. Right? But I don't know how granular or  
16 detailed people's memory or knowledge is about addresses. I  
17 just don't. But, again, that's not evidence of an intention to  
18 deceive somebody.

19 And remember, particularly when you are telling this  
20 all to pretrial, you are telling this all to the government,  
21 they can easily ask the follow up question, *Well, provide us*  
22 *information about the house. What more about these incoming*  
23 *wires? What's going on here? Right?*

24 If they're concerned about all of these things in the  
25 beginning which are international travel, what access to

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argument

1 deep-pocketed foreign individuals, or money that's coming into  
2 an account, I mean these are all things that no matter what  
3 they say today were taken into account during the time that the  
4 original bail had been set. They're all taken into account.  
5 There is maybe a couple items that they cite. One is this  
6 document stuff and the other is principally my communications  
7 with the Pretrial Services officer in Florida to support a  
8 claim that there are changed circumstances and I just don't  
9 think that there are.

10 For example, I will start with just going through the  
11 things in the government's pleadings here at page 3 of the  
12 memo. Parnas' diverging statements to pretrial and the  
13 government regarding his assets. Again, this is an example.  
14 The Judge in the Eastern District of Virginia, prosecution in  
15 the Eastern District of Virginia, were aware of these items.  
16 The government had asked that these things be presented as a  
17 precondition to Mr. Parnas' release. If they know and complain  
18 that they didn't read the things that they asked for and  
19 obtained as precondition to release, I just don't think that  
20 that's fair to now impute to him some kind of bad conduct  
21 because they didn't ask a follow-up question.

22 Then, we do have evidence in the Southern District of  
23 New York just before our first appearance of him talking to  
24 Pretrial Services about the monies that he was due at that  
25 time, accurately, from the law firm, that he computed this

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argument

1 future income, this what do you intend to receive in the future  
2 stuff. A couple days later we informed the government I can't  
3 complete this because there is certain information that we need  
4 and we cite to banking records, the need to speak to an  
5 accountant, things that are related to his self-employment.  
6 There was no attempt whatsoever to deceive.

7 And, along the way we have the government -- I should  
8 say the Pretrial Services office in this district not seeking  
9 remand of any sort and, indeed, identifying Mr. Parnas as  
10 having been compliant with every term of his release.  
11 Everything. He has not been late home. He has not tried to go  
12 somewhere else. There is no evidence of him trying to engage  
13 in criminal activity while out on pretrial supervision as the  
14 defendants in some of the these cases that the government would  
15 cite to you was doing.

16 And, the bottom line there is clearly a combination of  
17 conditions that will reasonably assure Mr. Parnas' appearance  
18 in Court. They have been in place. He has been flying to  
19 court. He has been traveling back and forth to see his  
20 lawyers. He has been defending his case. He has been taking  
21 positions with respect to the Congressional subpoena. And then  
22 you look to the facts of this case and the government's claim  
23 about his considerable ties abroad. Well, they knew that, his  
24 considerable ties abroad at the time of the setting of the  
25 original bail. They knew about his seemingly limitless access

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argument

1 to foreign funds, this benefactor relationship with Mr. Firtash  
2 at the time of the original bail. They knew about these  
3 alleged powerful incentives to flee at the time of the original  
4 bail. They knew that they were investigating other criminal  
5 charges at the time of the setting of the original bail.

6 All of these things were put into the calculus and  
7 then they decided to enter into an amended downward bond  
8 quantity with Mr. MacMahon and it was, indeed, as he couched.  
9 There was no deception about this so that Ms. Parnas and her  
10 three small children will have some means to live while  
11 Mr. Parnas is enduring dealing with this federal prosecution.

12 THE COURT: I thought I understood that the agreement  
13 to go down to \$200,000 was perhaps a day before they actually  
14 got the bank records showing the \$1 million loan.

15 Is that right?

16 MR. BONDY: Well, yes. Here. Again, Ms. Donaleski,  
17 on the 17th, requested of Mr. MacMahon that he provide two  
18 months of bank records. And this is prior to release. So,  
19 they asked for the two months of bank records prior to release.  
20 The following day, as we have been told by the government in  
21 Court, those records were produced. That, again, they show the  
22 records; they're produced. Mr. MacMahon, in his e-mail back to  
23 Ms. Donaleski, indicates that here are the bank statements I am  
24 told constitute the current cash accounts possessed by the  
25 Parnases. Remember, he also submits a couple bank account

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argument

records from a Chase account or something that is not  
Ms. Parnas'. Mr. MacMahon identified that day that there was  
also approximately \$30,000 in cash that had been seized as part  
of the search of the residence. This is partially Ms. Parnas'  
mother who is living in the residence, an older woman; a little  
bit of it was also Ms. Parnas. That money has been sequestered  
and now returned. And Mr. MacMahon proposes that the Parnases  
place \$200,000 in cash, in immediately available funds with the  
clerk in Virginia, as part of a revised bond package.

THE COURT: And that's Ms. Donaleski's e-mail.

MR. BONDY: This is Mr. MacMahon back to Ms. Donaleski  
after she -- yes, on the 17th of October.

THE COURT: Right. So, they didn't get the record  
showing the \$1 million loan until the 18th so she had already  
agreed to the \$200,000.

MR. BONDY: Yes, but the 18th is when he is released  
in court. That is a precondition. I mean, it is not that hard  
if they get the record and there is something they don't like  
about it to say wait a second, Judge, we have some other kind  
of questions here. It is routine. It is very simple.

But, importantly, Mr. MacMahon indicated that he  
offers the \$200,000, as Mr. Parnas is raising three young  
children in Florida and the family will need cash to live on as  
well as pay their travel and legal expenses occasioned by this  
case. And so, he asks, if we can reach an agreement we can

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argument

1 present an agreed order to Judge Nachmanoff and get Mr. Parnas  
2 to Pretrial Services to arrange the monitoring to get to New  
3 York next Wednesday for the arraignment and he hopes that is  
4 acceptable.

5 This is there has been nothing but disclosure here,  
6 your Honor. There was disclosure that there was going to be at  
7 least a couple hundred thousand dollars set aside for the  
8 purpose of the family attempting to live while Mr. Parnas was  
9 not in a position to be working and, for that matter, even  
10 leaving his home. So, again, all of these are things that are  
11 known to the government at the time.

12 Again, they cite on page 6, they talk about this  
13 nearly limitless means and this Ukrainian oligarch, but I  
14 believe it is pretty clear right now as we stand here in  
15 December that Mr. Parnas has absolutely no continuing  
16 relationship with Mr. Firtash. Mr. Firtash has no interest in  
17 having a relationship with Mr. Parnas. Mr. Parnas has  
18 completely burned those bridges by stating his willingness to  
19 comply with his subpoena and, indeed, attempting to do so.

20 The law firm that he was working for was a law firm  
21 that was employed by Mr. Firtash and those lawyers, too, have  
22 absolutely no incentive to assist Mr. Parnas, ever engage him  
23 for any purposes again, or even speak to him, for that matter.  
24 And, he has done that at great risk to himself and certainly at  
25 great risk to having any of these continuing relationships and,

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argument

1 I submit, he did the right thing.

2 Again, these powerful incentives to flee. Mr. Parnas  
3 knew he was under investigation for additional crimes, as did  
4 the government, as did the Court, everybody did at the time of  
5 his original arraignment when he was pulled off a flight with  
6 his one-way ticket and, in part, at least because he failed to  
7 comply with the Congressional subpoena he is now complying  
8 with. If anything, he has a powerful incentive now to stay and  
9 not to flee and, frankly, I don't think he ever had a powerful  
10 incentive to flee and that's why these conditions were arrived  
11 at, because he was deemed to not be a serious risk of flight.

12 I would like to take a moment to talk about his  
13 misleading Pretrial Services thing simply because it's  
14 upsetting to me.

15 I, very explicitly, spoke with Officer Samson and I  
16 told him that I was in court on the 2nd and I asked for  
17 Mr. Parnas' ability to go out for a couple hours a day. I told  
18 him the government opposes this. I asked him his position. We  
19 had a lengthy discussion in which he told me that Mr. Parnas  
20 was compliant with every term of his release; that pretrial, of  
21 course, works for the Court and not either party, and that he  
22 was comfortable with a day time curfew from 8:00 a.m. to 5:00  
23 p.m. And this is not so that he can be thrown out of his home  
24 every day for that period of time, but rather so that he would  
25 have the discretion to leave his home, if he wanted to, during

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argument

1 that time frame, so that he could do things, the same types of  
2 things I had asked before, your Honor -- just to be able to get  
3 out an exercise and have some sun and be with his family.

4 I am the one driving these requests but once I heard  
5 Officer Samson's position, which included the statement to me  
6 that when Mr. Parnas is stopped at a traffic light or taking a  
7 turn, he knows where he is. And Mr. Samson is saying to me  
8 that when he is driving down the highway, they even know how  
9 fast he is going because that was the nature of the GPS device  
10 that Mr. Parnas is wearing that pings every 30 seconds. Those  
11 are his words to me, his examples to me about the leash that  
12 Mr. Parnas is on. And, it goes further. When he gets up and  
13 goes to the bathroom, one can say Pretrial knows when he is  
14 moving. Every movement of his is tracked. If the bracelet was  
15 tampered with in any respects it would immediately go off.

16 I don't know what Pretrial would try to do but  
17 Mr. Samson told me specifically that had it been tampered with,  
18 if it was tampered with, it would immediately go off and he  
19 would know that immediately. I don't know whether it is on an  
20 app, I don't know if it is 24/7 in his phone, I don't know, but  
21 that was what he said to me.

22 I told him that we would be willing to limit travel  
23 away from slips, boat slips, and docks, and airports because it  
24 was Ms. Donaleski's concern that she raised to you on December  
25 2nd when she was concerned about him being able to slip onto a

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boat or get onto a plane. And I happily said we are more than -- we are contented to not go near any of those transportation hubs.

THE COURT: I think it was Mr. Zolkind, not Ms. Donaleski.

MR. BONDY: Okay. It was the government and whomever from the government was arguing, that was the argument that was being made, and in an attempt to address that with Officer Samson we gave that up.

I then incorporated what he said to me in the letter that I wrote to the Court including the italicized phrase, *the government opposes this application in all respects.*

Within an hour of my ECF filing I sent a copy of what I had filed to Officer Samson so that he could see what I wrote and so that he had it. Next thing I know on this issue is I am flying to a professional conference in Las Vegas and I get these calls from the government, and when I respond they ask me if I have told this Officer Samson: *It is all okay, the parties have agreed to this, don't worry, we are going to work it out.* Which is ridiculous.

They want to talk about me making a ridiculous argument? I am terribly sorry, that's ridiculous.

I sent him the correspondence showing what I had filed. When I spoke to him on the 11th he told me it was a misunderstanding. We had a discussion back and forth. I

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1 reminded him of the e-mail I had sent him a week earlier. I  
2 believe he opened it then. But when I sent it, he responded  
3 and said got it by e-mail. "Got it."

4 So, there was not any attempt, whatsoever, to mislead  
5 Officer Samson.

6 THE COURT: Look. I'm not going to rely on that but I  
7 will say for the record that I did speak with the Pretrial  
8 Services Officer Mr. Samson on the 13th of December, just to  
9 get his recollection, and his recollection was, as the  
10 government has said, that you gave him the impression that the  
11 Court -- I -- had ordered the parties to try to reach an  
12 agreement as opposed to my having ordered the parties to simply  
13 get pretrial service's position. The reason I am not relying  
14 on that is he doesn't blame anything on your client,  
15 Mr. Parnas. He thought that you were spinning it in a  
16 particular way but none of this was on the record, this was a  
17 game of telephone. So, maybe you put an aspirational spin on  
18 what I was contemplating in terms of that but, in fact, I did  
19 not say anything about likely granting your request. He was  
20 left with that impression, maybe it was his mistake. It  
21 doesn't matter.

22 You do need to be careful when relaying what the Court  
23 has said but I can't pinpoint where the breakdown was so I am  
24 not going to put a lot of emphasis on that.

25 MR. BONDY: I understand all of that and I can assure

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argument

1 the Court, as an Officer of the Court, that I was careful, and  
2 I was not so aspirational. I might have been closer to wet  
3 towel but I was just trying to get that answer.

4           Needless to say, it was nothing in those  
5 communications between Mr. Parnas and Mr. Samson that would  
6 amplify or constitute some kind of a new circumstance to allow  
7 the government to go back into this bail hearing and retrench  
8 the old. It does not make him a risk of flight, it just  
9 doesn't.

10           THE COURT: Okay.

11           I am going to take a brief break but I would like to  
12 see if the government would like to reply to anything you said.

13           Were you done? Or no?

14           MR. BONDY: I wasn't done but if you would like me to  
15 stop I could stop. I had a couple more points that I thought  
16 might be important.

17           THE COURT: You can go through them briefly.

18           MR. BONDY: Okay.

19           Just in terms of distinguishing these cases here, at  
20 page 7 they are citing *U.S. v. Bartok*, affirming revocation of  
21 bail based upon a magnitude of omissions in an affidavit that  
22 was probably willful and I don't think we have that magnitude  
23 of omissions here.

24           In terms of nature and circumstances, again, these are  
25 things all known to the government, your Honor. This is a

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argument

1 straightforward fraud case, there is no mandatory minimum,  
2 there are guidelines in this case that would be calculated far  
3 below the 30 years. Mr. Parnas' conduct in his attempts to  
4 provide truthful information and to be one of those people,  
5 unlike certain people, even in government, who want to comply  
6 with their subpoena, is something that I think would go a long  
7 way towards trying to make a mitigating argument at his  
8 sentencing -- if there is to be a sentencing -- if there is  
9 ever a conviction. But, he has very powerful incentives to  
10 stay here, face these charges and, if he loses, to make every  
11 argument available to him in mitigation of his sentence whether  
12 it is under 5K2.0 of the Sentencing Guidelines or 18 U.S. Code  
13 3553(a), the binding sentencing statute that requires a Judge  
14 to impose a sentence sufficient but no greater than necessary.

15 The government goes on to cite a litany of cases about  
16 people who have cut off their bracelets and run off to  
17 different countries. I do not know whether these defendants  
18 had the same ties to the United States that Mr. Parnas does  
19 coming here on a lottery, on a green card lottery; staying here  
20 and being a proud American citizen and having six children in  
21 the U.S.; having his wife in the United States as well. I  
22 don't know if people who are cutting the bracelet and fleeing  
23 to the Dominican Republic have those types of ties to this  
24 jurisdiction but Mr. Parnas certainly does.

25 Also, at *U.S. v Porter*, the government cites a Judge

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argument

1 Sifton Eastern District case from 2017 supporting the defendant  
2 being detained in supervised release context after he has been  
3 convicted and is not presumed innocent -- as Mr. Parnas is --  
4 because of his failure to abide by conditions of release that  
5 include defying any orders with which he does not agree. These  
6 cases are inapposite. This is not Mr. Parnas, your Honor.

7 And then, finally, they cite *Berkun*, again. They  
8 close with *Berkun* where a defendant's concealment of millions  
9 of dollars in assets and his commission of a crime while on  
10 bail warrant his being detained. And, again, I think that  
11 these cases are easily distinguishable from the circumstance at  
12 bar.

13 And so, at the end, I renew my request because I think  
14 it is fair that the Court grant Mr. Parnas some limited ability  
15 to be outside of his home during the pendency of his case. I  
16 know that we have seen Mr. Fruman on page 6 of the newspapers  
17 at a baseball game with his children and wife during  
18 Thanksgiving. The risk of flight, right? But, I would ask  
19 that he be allowed to have some humane opportunity simply to be  
20 outside. He is not a risk of flight, he is certainly not a  
21 serious risk of flight. Nothing the government has said here  
22 today has changed that calculus.

23 If the Court has any questions, I would be happy to  
24 answer them.

25 THE COURT: I think you have. Thank you.

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argument

1                   MR. BONDY: Thank you, your Honor.

2                   THE COURT: Did you want to add anything?

3                   MS. DONALESKI: Yes, your Honor. I just want to  
4 correct a couple of misstatements of the record that I think  
5 are pretty important.

6                   So, there is no question that Parnas materially misled  
7 the government both on October 17th, October 18th, and October  
8 30th, about his finances. There is no question that he didn't  
9 disclose his income from the law firm. As your Honor pointed  
10 out, he knew that he had earned that income. It is not as if  
11 the form asked for whether his accountant uses it as income,  
12 the question is what did you earn. He just told the Court that  
13 he earned \$50,000 a month for four months. He didn't disclose  
14 that, that's a material omission.

15                  Second, under Florida law, whether or not an account  
16 or a house is held in his wife's name, it's his asset. The  
17 form calls for Mr. Parnas to disclose real property, to  
18 disclose bank accounts. There is no question that he did not  
19 disclose to the government the fact that he had entered into a  
20 contract or his wife had entered into a contract to purchase  
21 real property.

22                  There is no question that he didn't disclose to the  
23 government the fact that they owed Firtash's lawyer a million  
24 dollars. The suggestion that the government was aware of this  
25 incoming money and therefore has waived any opportunity to

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argument

1 challenge it is just ludicrous. The government investigated  
2 it, was told one thing by Parnas' counsel which turned out to  
3 be false. And, the government has now brought it to the  
4 Court's attention.

5 So, given all of this, there is no reason for the  
6 Court to trust anything that Mr. Parnas is saying about his  
7 assets now.

8 THE COURT: What are you referring to when you just  
9 said, *was told one thing by counsel that turned out to be*  
10 *false*.

11 MS. DONALESKI: The government was told by defense  
12 counsel that the screenshots represented the Parnas' entire  
13 cash assets and they had no other real property or cash to  
14 post. That was not accurate. And then, when they submitted  
15 the financial affidavit, it materially omitted his income from  
16 the law firm, the loan from Firtash's lawyer, and the real  
17 property that they had purchased.

18 THE COURT: They didn't own it yet.

19 MS. DONALESKI: Your Honor, it doesn't specify that.  
20 It asks for real property so they should have either disclosed  
21 the property that they had purchased or were about to purchase  
22 or the \$200,000 that they had in escrow.

23 THE COURT: And where would they have disclosed the  
24 loan? Is there something for obligations?

25 MS. DONALESKI: Yes.

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argument

1                   THE COURT: That's assuming that he had a duty to  
2 disclose a loan in the name of his wife.

3                   MS. DONALESKI: Which, your Honor, for the reasons we  
4 have argued, was in fact income to him, but yes. That's under  
5 assets and liabilities.

6                   And, your Honor, I think even now the government isn't  
7 clear on Mr. Parnas' finances and the statements to the Court  
8 that he has made today about how he only has \$90,000, your  
9 Honor, Mr. Parnas is unemployed and we have learned from his  
10 pretrial officer that he has hired armed security to take his  
11 children to school, to accompany him to court, to guard his  
12 house. Who is paying for that? We still have serious  
13 questions about where Mr. Parnas is getting this money and  
14 whether or not this amount of bond is sufficient to deter him  
15 from fleeing and we submit that it is not. Mr. Parnas' lies to  
16 the government show that he is not being fully forthcoming.

17                  And I just want to address Bondy's suggest suggestion  
18 that because the government didn't call him on that, call him  
19 on the false statements at the time, that it means that we  
20 signed off on it or have waived any opportunity to challenge  
21 it. He is obligated to be truthful. He is obligated to be  
22 truthful with pretrial, to be truthful when he is submitting a  
23 sworn affidavit. It is Mr. Parnas' obligation to comply with  
24 pretrial, to be honest with pretrial and he hasn't done that,  
25 your Honor. It is not the government's obligation to

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argument

1 cross-examine him at every instance. It is his obligation to  
2 be truthful and his lack of truthfulness, his lack of candor,  
3 shows that he is not taking this seriously and he is unlikely  
4 to comply with the terms of release in the future. And just  
5 because he thinks it is in his interest to come to court today  
6 doesn't mean that he is not going to reach the opposite  
7 decision if and when there is a superseding indictment or if  
8 and when he is convicted.

9 THE COURT: Thank you.

10 MR. BONDY: Your Honor, I forgot to note with respect  
11 to the threats, there is a gentleman whose name is Igor  
12 Kolomoisky, and he is parentally what one might call an  
13 oligarch, from Ukraine.

14 Mr. Giuliani, several months back, treated about  
15 Mr. Kolomoisky having threaten Mr. Fruman and Mr. Parnas, from  
16 Ukraine. And there is media reportage about Mr. Kolomoisky  
17 saying that Mr. Parnas was going to see his wife day or  
18 something like that.

19 Mr. Parnas had actually gone so far as to file a  
20 criminal complaint, a case against Mr. Kolomoisky in Ukraine  
21 and has not returned -- because he can't return anyway now --  
22 to try to further that issue. But, there is palpable recorded  
23 evidence of there being threats from this person whom, as I  
24 understand it, controls a number of people and has a reputation  
25 for some form of violence in the Ukraine, number one.

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argument

1                   And then, number two, Mr. Parnas pointed out to me  
2 that he was released on the 21st, not the 18th, just to kind of  
3 get the continuance straight.

4                   My final point is I don't know about Florida law but I  
5 don't know if Mr. Parnas was aware of that either and I haven't  
6 seen that statute. So, for all the reasons that we stated, I  
7 ask that you allow him to remain on bail and give him a little  
8 time out.

9                   THE COURT: What is the timing of the complaint he  
10 filed in Ukraine, if you know? Was it a few years ago or last  
11 few months?

12                  MR. BONDY: May of 2019, your Honor. Recently. And  
13 then there is a Tweet from Mayor Giuliani sometime around that  
14 period as well and the Tweet is something to the effect of Igor  
15 Kolomoisky, exiled in Israel comes back to Ukraine and the  
16 first thing he does is threaten two American citizens --  
17 referring to Mr. Parnas and co-defendant Fruman.

18                  THE COURT: Thanks. I'm going to take a five-minute  
19 recess.

20                  (recess)

21                  THE COURT: I have considered the parties' submissions  
22 and arguments here today. The question before me really is  
23 whether there is a set of conditions that will assure the  
24 presence of the defendant in light of all the circumstances or  
25 whether the risk of flight is so great that even the

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argument

1       restrictive conditions that have been imposed in the case are  
2       not adequate to guard against risk of flight. It is relevant  
3       that the government did agree to the \$1 million bond that was  
4       secured by \$200,000 in cash in October and that provides  
5       somewhat of a baseline. It is not as if the government waives  
6       any argument, technically, for anything other than what has  
7       changed since that time. However, given that the government  
8       agreed to it at that time there is a sense in which fairness  
9       and justice support the idea that I should be focused on what's  
10      different now versus the situation that existed at time the  
11      government agreed to the bail conditions which are as  
12      restrictive as they exist.

13                  The government points to several factors and they are  
14       concerning. They are focused in terms of what's different than  
15       October, they're focused on the financial situation and alleged  
16       misstatements by Mr. Parnas about his financial condition. I'm  
17       not going to focus on the issues of connections overseas, the  
18       frequency of flights, the fact that he had a benefactor in  
19       Mr. Firtash, etc., because those were all issues that were  
20       present earlier and continue to be present. But, with respect  
21       to the alleged misstatements, when you focus on them, I find  
22       that they're not obvious misstatements. There is explanations  
23       that don't necessarily excuse the answers that were given or  
24       the information that was given by Mr. Parnas, but there is no  
25       clear, direct misstatement, for example, with respect to law

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1 firm employment. The fact that he wouldn't put down under  
2 employment that you have an employer for a four-month stint  
3 doesn't necessarily mean there is a misstatement in a situation  
4 where you have disclosed separately that there is money coming  
5 from this law firm. Admittedly, the description of the money  
6 is somewhat confused but that happens over time; this is based  
7 on the information the defendant had at the time without access  
8 to paper records or electronic records.

9 With respect to the financial status and assets of his  
10 wife, again, there is nothing that clearly indicates that he  
11 had a duty to disclose his wife's assets. There is certainly  
12 lots of suspicious information here about the fact that this  
13 was, as a practical matter and in reality, Mr. Parnas' money as  
14 opposed to his wife's, even though there was allegedly a loan  
15 to the wife but I don't know that that's a clear and  
16 intentional misstatement such that bail should be revoked at  
17 this point.

18 In addition, the fact is that the government, on  
19 October 17th, required two months of bank statements from the  
20 defendant's wife, clearly tipped off to the idea that this  
21 might be happening, and when it got the information the next  
22 day, \$1 million in wire transfers was disclosed to the  
23 government; five separate \$200,000 wiretap payments, the  
24 government totally reasonably says we are going to look into  
25 that we are going to investigate that. But, the delta between

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argument

1 having a \$1 million wire coming in and knowing that it was from  
2 a foreign source, I don't know that that makes the difference  
3 between the conditions that have been set and detention.

4 Similarly, with respect to the house, that was  
5 disclosed to the Pretrial Services officer; not the amount of  
6 the payment but fact that the defendant was in the process of  
7 purchasing a house.

8 So, with respect to all of these things, there was  
9 information provided. It might have violated the spirit of  
10 what was requested and the spirit of what should have been  
11 provided in terms of showing the defendant's real financial  
12 picture, but I don't know that it rises to the level,  
13 especially with respect to what is different now, as opposed to  
14 October, to intentional misstatements warranting the revocation  
15 of bail. And I say all of this against the backdrop of the  
16 idea that bail is for the purpose, at least here, of assuring  
17 the defendant's appearance. He hasn't been convicted, he is  
18 presumed innocent, as we all know. This is not a case under  
19 these statutes where there is a presumption that he will flee  
20 or presumption that he is a danger to the community. He is  
21 somebody who has young children, he has complied with all of  
22 the conditions including reporting frequently to his Pretrial  
23 Services officer in Florida.

24 Considering all of these factors -- and I'm not  
25 denigrating any of the arguments made by the government, I

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argument

1 think it is a reasonable application that the government has  
2 made, but -- I do think that the strict conditions that exist  
3 are appropriate.

4 I am also going to deny defendant's request for  
5 modification. For all the reasons I have described there is a  
6 serious risk of flight but do I find that the conditions that  
7 have been imposed are sufficient to assure the future  
8 appearance of the defendant in the case, particularly in light  
9 of the fact that he has met all of those requirements to this  
10 point.

11 So, requests on both sides for modification of bail or  
12 detention are denied.

13 Anything further?

14 MS. DONALESKI: Not from the government. Thank you,  
15 your Honor.

16 MR. BONDY: No, your Honor. Thank you.

17 THE COURT: Thank you. We are adjourned.

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